IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FOURTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NO.21631 of 2004

Between:

Mohd Ishaq, S/o Sri Mohd. Chand,
R/o H.No. 16-5-189/1, Dabeerpura, Hyderabad.

..... PETITIONER

AND

1 Hyderabad Water Supply and Sewerage Board, Khairatabad,

Hyderabad - 500 004,
rep. by its Managing Director.
2 The Executive Director, Hyderabad Water Supply and Sewerage

Board, Khairatabad, Hyderabad - 500 004.
3 The General Manager, (Engineering) , Division V, H.M.W.S. & S.B.,

Narayanaguda, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order or directions, more particularly one in the nature of Writ of Mandamus declaring the action of the Respondents in rejecting the Petitioner's application dated 22-5-2004 as arbitrary, illegal, mala fide and contrary to law and further direct the Respondents to consider the Petitioner's application on the basis of the third Respondent's Report bearing No. 810 dated 18-6-2004.

Counsel for the Petitioner: MR.M.V.DURGA PRASAD

Counsel for the Respondents: MS.M.VENKATESWARI (SC for HMWSSB)

The Court made the following:

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THE HON'BLE SRI JUSTICE N.V. RAMANA

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W.P. No. 21631 of 2004

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O r d e r:

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-Hyderabad Water Supply and Sewerage Board (for short 'the Board')

The petitioner states that the respondents-Board, which are owning unused lands at several places in and around Hyderabad, with a view to protect them from encroachments, started leasing them out to third parties. The petitioner, therefore, made an application dated
22-5-2004 requesting the respondents to lease out a small piece of their land admeasuring 125 Sq.yds. situated at Cafe Park Hotel, Chaderghat, Hyderabad, for carrying on hotel business. The petitioner states that pursuant to his application, the Chief Engineer and Director (personnel and Administration) and the Chief General Manager (Engineering) directed respondent No.3-General Manager (Engineering) to conduct an enquiry, and it is his grievance that though respondent No.3 has sent a report dated 18-6-2004 stating that a small piece of land is available and that it is not needed for any purpose or future use, and that it can be leased out, no lease has been granted, and contends that the lease is not being granted by respondent No.1, as one of its officers want the land to be leased in favour of their relatives, and further

submits that respondents had leased out their vacant lands to third parties on earlier occasions, and to evidence that he produced a letter dated 17-12-2003, whereunder permission for auctioning their land for parking space was given, and contended that the action of the respondents in not leasing out the land in question to him, amounts to discrimination.

The respondents in their counter denied the contention of the petitioner that the Board has been leasing out their lands to third parties. It is contended that though certain lands are available, they are very much needed for expansion of their activities and operations. Pursuant to the application of the petitioner, an enquiry was conducted whether any land is available and if so whether it can be leased out, and though in the enquiry, it was found that a small piece of land is available, on further verification by the respondents, it was found that the land which the petitioner is asking cannot be leased out as it is being used as approach, and if the said land is leased out, it will not only be an hindrance to the approach, but also for undertaking repair works. The respondents denied the contention that the land is not being leased out to him with a view to lease out the same to the relatives of the officers of the respondents. They thus prayed for dismissal of the writ petition.

Pursuant to the order passed by this Court on 20-1-2005, the respondents filed affidavits of the General Manager (Engineering) and the Executive Director of the Board, which is supported by a statement showing the details of encroachment of the lands of the Board by private persons, and the steps taken by them in the suits filed by the encroachers against the Board.

The petitioner, as a matter of right, cannot seek a direction to the respondents-Board to lease out their lands to him for carrying on hotel business or any other business. It is for the owners of the lands to decide whether or not to lease out their lands. Merely because the lands of the Board are lying waste and unused, it does not confer any right upon the petitioner or any other person to claim that the unused land should be leased out to him, and more so when it is the specific case of the respondents that the land which the petitioner is seeking to be leased out to him, is being used as an approach and that if it is leased out, it would not only be an hindrance to the approach, but would affect their repair work, and that it is very much required and needed for expanding their activities and operations. Though the petitioner contends that the respondents had leased out their lands to third parties,

the same is disputed by the respondents, and in the affidavit filed by respondent No.2, which is supported by a statement showing the details of encroachment and action, the names of the persons who had encroached upon their land, and at what stages the suits filed by them are pending, is narrated, and it is further stated that by virtue of the orders passed in the suits, the encroachers are in possession of their lands, and in all the civil suits filed against them, they have already entered their appearance and are contesting the matters, which are at various stages, and in one case, in pursuance of the judgment and decree dated 28-12-2002 passed in O.S. No. 457 of 2001, the Board has also issued eviction notice to the encroachers. In view of the stand taken by the respondents in the affidavits that they are not leasing out their lands to third parties, and in fact, have already taken steps to defend themselves in the civil suits filed by the encroachers against them, and sought the eviction of the encroachers, no direction as prayed for by the petitioner directing the respondents to lease out their land to him, can be granted, and non-leasing out of their land by the Board to the petitioner, can by no means be said to be discriminatory.

In the above view of the matter, there is no merit in the writ petition, and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 4th March, 2005.

KSR

To

1 The Managing Director, Hyderabad Water Supply and Sewerage

Board, Khairatabad, Hyderabad - 500 004,
2 The Executive Director, Hyderabad Water Supply and Sewerage

Board, Khairatabad, Hyderabad - 500 004.
3 The General Manager, (Engineering) , Division V, H.M.W.S. & S.B.,

Narayanaguda, Hyderabad.

4 Two CD copies

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